

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0253-01
Bill No.: HB 304
Subject: Ethics
Type: Original
Date: January 30, 2015

Bill Summary: This proposal incorporates provisions relating to ethics.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(Unknown greater than \$50,693)	(Unknown greater than \$94,085)	(Unknown greater than \$95,037)
Total Estimated Net Effect on General Revenue	(Unknown greater than \$50,693)	(Unknown greater than \$94,085)	(Unknown greater than \$95,037)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Missouri Ethics Commission Enforcement*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

* Revenue and costs net to zero.

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	2 FTE	2 FTE	2 FTE

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Missouri Ethics Commission (MEC)** assume the implementation of the above responsibilities would require the following additional resources:

The proposed legislation will require the creation of new electronic filing systems as well as modifications to current filing systems. Below is an estimated amount of programming hours MEC believes would be necessary to complete electronic filing systems related to the Personal Financial Disclosure System, Lobbyist System and Campaign Finance System. MEC would have to provide the resources necessary to accomplish these tasks either by having current staff defer work on other ongoing projects or by contracting for these services.

- Modify Personal Financial Disclosure electronic filing system to record new required data. Modifying the current system will include changes to the database, creation of new data entry pages, modification to the systems menu and modifying the electronic form. Modifying the current system will include 40 hours of design work, 80 hours per page to develop 2 new pages (total of 160 hours), 40 hours to complete the enhancements of menu pages and 40 hours to enhance the electronic form. The development includes programming, testing and analysis. MEC estimates a total of 280 hours for this modification.
- Modify Personal Financial Disclosure electronic filing system to allow 2nd PFD filing for specific filers. Modifying the current system will entail 80 hours to design and develop one page. The development includes programming, testing and analysis. MEC estimates a total of 80 hours for this modification.

Oversight assumes that the MEC has programmers on staff to handle the reprogramming of the computer systems and would not need to contract for these services. MEC did not reduce its programming staff when the campaign limits were repealed with SB 1038 and therefore the current FTE should be able to handle the increased programming responsibilities.

MEC anticipates the need for 2 Business Analysts to conduct the routine work necessary in reviewing and providing oversight for the area of Personal Financial Disclosure (PFD). The Business Analysts would review reports for compliance, prepare necessary notices, track the filings and assist the filers in completing the necessary reports. Currently, MEC has one Analyst handling approximately 9,364 PFD filings and corresponding with 4,016 political subdivisions. This proposal eliminates the option for political subdivisions to pass an ordinance to allow filers to file locally rather than with the MEC.

ASSUMPTION (continued)

As a result, MEC anticipates that it will handle 57,784 additional PFD filers. The breakout of those projected additional filers is set out below.

- Annual Filers - MEC received approximately 8,416 annual filings in 2013 (Personal Financial Disclosures due by May 1 - long form filers). MEC currently has 4,016 political subdivisions. Generally, from each subdivision the following positions will be required to file a Personal Financial Disclosure: each board member, chief administrative officer, chief purchasing officer, full-time general counsel and candidates for office. MEC calculated the prospective number of filers from each political subdivision by multiplying the total number of political subdivisions by the number of board members, chief administrative officer and chief purchasing officer. For example, MEC currently has 118 Ambulance Districts. Statute sets the number of board members as six (6); add to this the chief administrative and purchasing officer positions as required, and the number of required annual filers for each ambulance district is eight (8). (Since it is rare for a district to have a full-time general counsel, this office was not included. However, in our final estimate we rounded to include any additional positions would be included.) MEC did the similar calculations for each political subdivision type such as: schools, nursing homes, hospitals, health departments, fire, water, sewer, etc. MEC came to a total of 25,584 additional annual filers.
- Candidates - Without knowing how many candidates may file for office, MEC worked on the assumption of one per board position. Although not all board members run during the same election year, by including one candidate per board position this will provide an estimate of 32,000 potential candidates.
- General Assembly - MEC estimated approximately 2 legislative assistants per Senator or Representative for a total of 200 additional filers.

MEC anticipates the need for 1/2 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the area of lobbying, campaign finance, assessment of late fees and the implementation of the MEC Enforcement Fund. The Business Analyst would review reports for compliance, prepare necessary notices, track the filings, assist the filers in completing the necessary reports, track non-filings, assess late fees for late filers and monitor the receipts into the MEC Enforcement fund and the expenditures from the MEC Enforcement fund. Currently, MEC assesses a total of 761 late fees for late filers in the areas of campaign finance, lobbying and personal financial disclosure (PFD). MEC's current percentage of PFD filers assessed for filing late is 2.4%. MEC estimates approximately 1,386 additional late PFD filings. Each non-filer and late filer must be notified via certified mail.

ASSUMPTION (continued)

Oversight will show 2 FTE for the increased duties of all the additional PFD filers. For fiscal note purposes only, Oversight adjusted the salary and benefits of the 2 Business Analysts (\$30,420) to correspond with the range for starting salaries of current MEC staff for a similar position.

MEC anticipates the need for 1/2 Trainer to provide education/training and develop informational materials as it relates to the various changes contained in this legislation.

Oversight assumes that any additional training can be done within any normally scheduled trainings and through regular mailings and electronic notices. Therefore, MEC can absorb the training costs with existing resources.

MEC assumes that if the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo or complaints received increase significantly an Investigator would be required to review potential violations.

Oversight assumes that should MEC have a significant increase in complaints, the MEC can seek additional resources through the appropriation process.

Officials at the **Department of Corrections (DOC)** assumes the new class D felony for §575.021 is expected to result in one new admission and two probations per year. The new admission will serve 12 months in prison and three years on parole and the probation term will be three years.

Based upon historical data, DOC assumes that approximately 1 offender will be sentenced to incarceration; as well as 2 offenders in year one, 5 offenders in year two, 8 offenders in year three, and 9 offenders in year four and beyond would be sentenced to supervision under this new legislation. Probationers would serve, on average, three years of probation. The average prison time served for these types of D felonies is 12 months.

The FY2014 average cost of supervision is \$6.72 per offender per day or an annual cost of \$2,453 per offender. The DOC cost of incarceration is \$16.725 per day or an annual cost of \$6,105 per offender.

The DOC would assume this legislation will result in long term costs as indicated in the chart below.

ASSUMPTION (continued)

	# to Prison	Cost per year	Total Cost	# to Probation	Cost per year	Total Cost of Probation	Grand Total
Yr 1	1	\$6,105	\$6,105	2	\$2,453	\$4,906	\$9,176
Yr 2	1	\$6,105	\$6,105	5	\$2,453	\$12,265	\$18,737
Yr 3	1	\$6,105	\$6,105	8	\$2,453	\$19,624	\$26,768
Yr 4	1	\$6,105	\$6,105	9	\$2,453	\$22,086	\$29,917
Yr 5	1	\$6,105	\$6,105	9	\$2,453	\$22,095	\$30,525
Yr 6	1	\$6,105	\$6,105	9	\$2,453	\$22,104	\$31,145
Yr 7	1	\$6,105	\$6,105	9	\$2,453	\$22,113	\$31,778
Yr 8	1	\$6,105	\$6,105	9	\$2,453	\$22,122	\$32,424
Yr 9	1	\$6,105	\$6,105	9	\$2,453	\$22,131	\$33,083
Yr 10	1	\$6,105	\$6,105	9	\$2,453	\$22,140	\$33,755

Note: Year 1 is only 10 months; Years 2-10 include a 2% inflation rate

Due to the severity of the penalties, **Oversight** assumes there will be very few offenders sentenced to incarceration or supervision. Therefore, Oversight assumes the number of offenders sentenced to incarceration and supervision would create a minimal fiscal impact and DOC could absorb the costs within existing resources.

Officials at the **Office of Administration's Division of Budget and Planning (BAP)** assume this \$105,955.19 requires fifty percent of any fine, fee, or penalty imposed under the jurisdiction of the MEC to be deposited into the newly created Missouri Ethics Commission Enforcement Fund. If any of these fines are currently deposited to General Revenue; this proposal could reduce General Revenue collections by an unknown amount.

Oversight assumes that all money deposited in the Missouri Ethics Commission Enforcement Fund will be spent in the year in which it's received.

Oversight assumes this proposal creates the Missouri Ethics Commission Enforcement Fund that will receive 50% of any fine, fee, or penalty imposed for violations of any provisions subject to MEC's jurisdiction. The Fund is to be used by MEC for enforcement activities of the MEC. Oversight assumes that all money received by the Fund will be used upon receipt.

ASSUMPTION (continued)

Officials at the **Department of Economic Development's Division of Business and Community Services (DED-BCS)** assume to comply with the new requirements to post meeting minutes and notices of employee to employee meetings (§610.010), DED-BCS will require 1 additional FTE. The FTE will be an Office Assistant and will assist in posting meeting minutes, notices of meetings, and complying with the statute. DED-BCS will also require additional paper supplies as a result of this proposal.

Oversight assumes DED-BCS could absorb the responsibilities of this proposal with existing resources.

Officials at the **Department of Economic Development's Division of Energy (DED-DE)** assume to comply with the new requirements to post meeting minutes and notices of employee to employee meetings (§610.010), DED-DE will require 0.5 additional FTE. The FTE will be an Administrative Office Support Assistant and will assist in preparing and posting meeting minutes, notices of meetings, and complying with the statute. DED-DE will also require additional office/paper supplies as a result of this proposal.

Oversight assumes DED-DE could absorb the responsibilities of this proposal with existing resources.

Officials at the **Columbia City Council's Office** assume this proposal appears to apply to City employees who, in addition to being paid by the City, also received compensation through their political activities. The Columbia City Council and the City's workforce are non-partisan; thus, fiscal impact seems unlikely. More responsibility appears to fall on the individual employee. If the employee is involved in political activity in a way that also jeopardizes his or her public employment, there could be some impact from dealing with a disciplinary action or termination.

Officials at the **Department of Public Safety's Capitol Police**, the **Department of Public Safety's Division of Alcohol and Tobacco Control**, the **Office of the St. Louis County Executive**, the **Department of Higher Education**, the **Office of the Attorney General**, **Kansas City Public Schools**, the **Platte County Board of Election Commission**, the **Office of the Lieutenant Governor**, the **Office of the State Public Defender**, the **Department of Agriculture**, the **Office of Prosecution Services**, the **Monroe County Clerk**, the **Office of Administration's Division of Personnel**, the **Office of Administration's Division of Accounting**, the **Missouri State Highway Patrol**, the **Missouri Senate**, the **Jackson County Board of Election Commission**, the **State Technical College of Missouri**, the **Missouri State**

ASSUMPTION (continued)

University, the Office of the State Treasurer, the Department of Natural Resources, the Department of Health and Senior Services, the Department of Insurance, Financial Institutions and Professional Registration, the University of Central Missouri, Missouri Southern State University, the Office of the State Courts Administrator, the Department of Elementary and Secondary Education, the Department of Social Services, the St. Louis County Board of Election Commission, the Department of Public Safety's Division of Fire Safety, the Department of Mental Health, the Department of Labor and Industrial Relations, the Department of Revenue's Division of Taxation, the Department of Public Safety's Office of the Director, the Department of Public Safety's Veterans Commission, Missouri Western University, State Fair Community College, the Office of the Governor, the Missouri House of Representatives, the Department of Transportation, and the Kansas City Metropolitan Community College.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (6 Mo.)	FY 2017	FY 2018
GENERAL REVENUE			
<u>Loss</u> - §105.955.19 50% of any fines currently deposited in General Revenue	(Unknown)	(Unknown)	(Unknown)
<u>Costs</u> - MEC			
Personal Service	(\$30,420)	(\$61,448)	(\$62,063)
Fringe Benefits	(\$15,820)	(\$31,956)	(\$32,276)
Equipment and Expenses	<u>(\$4,453)</u>	<u>(\$681)</u>	<u>(\$698)</u>
<u>Total Costs</u> - MEC	<u>(\$50,693)</u>	<u>(\$94,085)</u>	<u>(\$95,037)</u>
FTE Change - MEC	2 FTE	2 FTE	2 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	(Unknown greater than <u>\$50,693</u>)	(Unknown greater than <u>\$94,085</u>)	(Unknown greater than <u>\$95,037</u>)
Net Effect on FTE Change	2 FTE	2 FTE	2 FTE
MISSOURI ETHICS COMMISSION ENFORCEMENT FUND			
<u>Revenue</u> - §105.955.19 50% of fines currently deposited into General Revenue	Unknown	Unknown	Unknown
<u>Costs</u> - funding of MEC enforcement	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON MISSOURI ETHICS COMMISSION ENFORCEMENT FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2016 (6 Mo.)	FY 2017	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill changes the law regarding ethics and lobbying. In its main provisions, the bill:

- (1) Requires full time, paid employees of statewide elected officials who work to influence legislation, certain state or political subdivision employees who receive additional compensation for political activities not related to their official duties, and staff members of the General Assembly to file personal financial statements;
- (2) Adds additional criteria to the financial interest statement criteria for those individuals required to file with the Missouri Ethics Commission:
- (3) Creates the Missouri Ethics Commission Enforcement Fund which must be used solely to fund authorized activities of the Missouri Ethics Commission and consists of 50% of specified fees and penalties imposed by the commission excluding any monies reserved to the schools by the Constitution of Missouri. All funds in the Missouri Ethics Commission Enforcement Fund must be deemed additional funding to allow the commission to fulfill the duties required of the commission by state law, and no amount appropriated to the commission for any fiscal year beginning on or after July 1, 2015, will be reduced below the appropriation made for the fiscal year ending on June 30, 2015. The fund may be used to pay for information used in ethics investigations under specified circumstances;
- (4) Prohibits candidates from using their candidacy as a sham to conceal the name of another candidate or to divide the opposition and requires the signature of an affidavit to that effect for primary elections;
- (5) Prohibits giving, lending, agreeing to give or lend, offering, promising, or endeavoring to procure any money or valuable consideration with the intent of inducing any individual to run for any office in this state if the individual has a name that is identical or similar to another candidate for the same elective public office and would not otherwise run for elective public office but for the inducement. Campaign donations made in accordance with the laws of this state must not be construed to be an inducement;
- (6) Changes the crime of obstruction of an ethics investigation from a class A misdemeanor to a class D felony and then to the new class E felony classification beginning in 2017;

FISCAL DESCRIPTION (continued)

(7) Includes the following individuals under the definition of "public governmental bodies" for purposes of Chapter 610, RSMo, commonly known as the Sunshine Law: any public official, statewide elected official, or employee of the state and its agencies when the individuals are operating in their official capacities and using state-funded equipment for their official communications. This rule must be construed to apply to individual members of the General Assembly and the staff or employees of the members.

This bill becomes effective January 1, 2016.

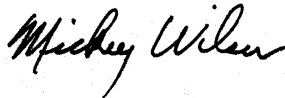
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Lieutenant Governor
Office of the State Public Defender
Office of Prosecution Services
Office of the Governor
Office of the Secretary of State
Office of the Attorney General
Office of the State Courts Administrator
Office of the State Treasurer
Missouri House of Representatives
Missouri Senate
Office of Administration's Division of Personnel
Office of Administration's Division of Accounting
Office of Administration's Division of Budget and Planning
Department of Agriculture
Department of Higher Education
Department of Elementary and Secondary Education
Department of Social Services
Department of Mental Health
Department of Labor and Industrial Relations
Department of Revenue's Division of Taxation
Department of Public Safety's Capitol Police
Department of Public Safety Division of Alcohol and Tobacco Control
Department of Public Safety's Office of the Director
Department of Public Safety's Veterans Commission

SOURCES OF INFORMATION (continued)

Department of Public Safety's Division of Fire Safety
Missouri State Highway Patrol
Department of Natural Resources
Department of Health and Senior Services
Department of Insurance, Financial Institutions and Professional Registration
Department of Economic Development's Division of Business and Community Services
Department of Economic Development's Division of Energy
Missouri Ethics Commission
Department of Transportation
Department of Corrections
State Technical College of Missouri
Missouri State University
Kansas City Public Schools
University of Central Missouri
Missouri Southern State University
Missouri Western University
State Fair Community College
Jackson County Board of Election Commission
Platte County Board of Election Commission
St. Louis County Board of Election Commission
Office of the St. Louis County Executive
Monroe County Clerk
Kansas City Metropolitan Community College.
Columbia City Council's Office



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